

HONORABLE LONNY R. SUKO

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Attorney for Defendants

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

DAVID A DODD;

NO. CV - 12-522-LRS

Plaintiff(s),

DECLARATION OF JAMES W.
MARSHALL IN SUPPORT OF
DEFENDANTS MOTION FOR
SUMMARY JUDGMENT

v.

JAMES W. MARSHALL AND CITY OF EAST
WENATCHEE, sued in individual and official
capacities;

Defendant(s).

I, James W. Marshall certify (or declare) under penalty of perjury under the laws of the State of Washington that the following statements are true and correct:

1. I am a Police officer in the City of East Wenatchee, Washington. I became a police officer in 2003 and have been with the City for about five years. I have been through the police academy and continue to receive training and work as a field training officer.
2. I am familiar with the Plaintiff, David Dodd, and am aware of his lengthy criminal history and he is well known to the department.

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Declaration of James Marshall in
Support of Defendants Motion for Summary
Judgment 12-522-LRS

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251439

- 1 3. I have had several contacts with Mr. Dodd myself, however, officers from the department
- 2 have had numerous contacts including having been called to his home due to domestic
- 3 disturbance calls. He is known as a volatile individual.
- 4 4. I have never driven by his house and shined a light in the window or for any other
- 5 harassing purpose. I have never driven my police car past his car and purposefully turned
- 6 around to follow or harass him.
- 7 5. On the night in question, I did not see or notice Mr. Dodd prior to him approaching me
- 8 near Costco.
- 9 6. My police report, attached, is a true and accurate copy of the report I drafted after the
- 10 event. I was sitting in my vehicle when Mr. Dodd, at what seemed to be a high rate of
- 11 speed, pulled alongside my vehicle, in the wrong lane of traffic, and began yelling
- 12 obscenities at me. I pulled forward so I could get out of the vehicle because I felt
- 13 threatened by the unprovoked attack. Mr. Dodd then sped off.
- 14 7. I saw his car travel at what seemed a rate of speed that was unsafe. I thought that the
- 15 dangerous driving, which included speeding and driving in the wrong lane coupled with
- 16 the obviously erratic behavior he displayed in berating me, gave me reason to be
- 17 concerned and I decided to follow and contact Mr. Dodd. I have been trained to
- 18 recognize impaired drivers and Mr. Dodd seemed to be impaired based upon his actions,
- 19 demeanor and driving.
- 20 8. Mr. Dodd continued to drive at a rate that seemed excessive and when I finally got near
- 21 his vehicle, with my lights and sirens on, he would not pull over.
- 22
- 23

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Declaration of James Marshall in
Support of Defendants Motion for Summary
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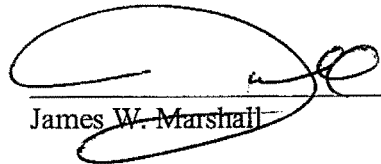
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1 9. After he got to his house he came toward me, yelling and cursing. Knowing his
2 reputation and having witnessed his erratic threatening behavior, I pulled my service
3 weapon and kept it at low ready, as I have been trained. He continued to be verbally
4 combative so I then pulled the taser and leveled the red sight on his chest. He then got
5 down on the ground. I never pointed the gun at him but did have it ready at the first
6 contact because of concerns over his actions and for my safety and the safety of my
7 passenger.

8 10. After taking him to the station I had a DRE (Drug Recognition Expert) come to evaluate
9 Mr. Dodd. Mr. Dodd continued to berate me, act erratic and would not cooperate. A true
10 and accurate report of the DRE, which is attached to my report, is attached. He refused
11 all testing.

12 Executed at East Wenatchee, WA on July 12th, 2013.

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14 
15 James W. Marshall

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System. I certify that I mailed a copy of the document to which this is affixed by U.S. mail, postage prepaid, to:

Airway Heights Corrections Center MB -40
David A. Dodd, DOC No. 291866
PO Box 2049
Airway Heights, WA 99001-2049

DATED July 16th, 2013 at Ephrata, Washington.

s/Brian A. Christensen
Brian A. Christensen

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POLICE REPORT OF OFFICER JAMES W MARSHALL

East Wenatchee Police Department

271 9th St. NE
East Wenatchee, WA. 98802
(509) 884-9511

ent to: CA + DOL / DCPA
ate: 06/15/10 / 46-11
age 1: of 4 / 4

DUI REPORT

CASE#: 10E03006	CIT#: C0008613	DATE OF ARREST: 06/09/2010	TIME OF ARREST: 2224 hours
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DETAILS:

AUTHORITY:

I am commissioned by the Chief of Police for the City of East Wenatchee, and certified by the State of Washington as a Washington State Peace Officer in accordance with RCW 43.101.010 and as such, authorized to enforce all the laws of the State of Washington and on the date and time of this incident I was working within the scope of my commission or under a mutual aid agreement. In addition at the time of this incident/investigation I was and am certified to operate the BAC Data-Master/CDM and PBT that was used and certified in conducting Standardized Field Sobriety Testing.

SYNOPSIS:

On 06/09/2010 at about 2221 hours, I conducted the following traffic investigation in the 200 block of Highline Dr in East Wenatchee. The result was the arrest of the driver for Failing to stop for officer and DUI in the 200 block of S Houston in East Wenatchee. The Def was booked into CCRJC at the conclusion of my investigation.

VEHICLE IN MOTION:

Initial observations:

On 06/09/2010 at about 2221 hours, I was working uniform patrol driving a marked police vehicle in the City of East Wenatchee. I was sitting in the Costco parking lot located in the 200 block of Highline. I was at a stop sign in the entrance of the lot typing on my mobile data computer. At the time of this incident I had a citizen rider in my vehicle, [REDACTED]

While typing on my computer I noticed a set of head lights entering the parking lot behind me at a high rate of speed. The vehicle sped up to mine then entered the opposite lane to my left. The driver suddenly stopped in the oncoming lane and began to yell obscenities at me. He was waiving his arms in a highly agitated state yelling, "Fuck!" and things to the affect of leave me the fuck alone. Fearing for my safety and the safety of my rider I immediately pulled forward and to the right which would allow me to exit my vehicle and engage the hostile individual.

The truck then sped away at a high rate of speed towards Pace Dr at the north exit of Costco. I immediately called a second unit on my radio. My intent was to make a stop on the vehicle for the driving violations, (driving on the wrong side of the road and speeding through the parking lot) and investigate the road rage the driver was doing.

As I pulled out onto Highline from Pace Dr to follow the driver I saw that he was nearly to 3rd St SE and obviously speeding as this is a 25 MPH road. I initiated an attempt to catch up to the driver. As I turned east onto 3rd St SE he was already passing the Town Toyota and turning onto Eastridge. As I

I certify (declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. (RCW 9A.72.085)

OFFICER SIGNATURE

BADGE #

APPROVED BY

DATE SIGNED

EAST WENATCHEE / DOUGLAS / WIT
Place signed (city/county/state)

turned onto Eastridge I could see that the driver was driving with a wanton and willful disregard for the safety of any persons, pets, or vehicles parked along the road in this residential neighborhood. He was driving well in excess of the posted 25 MPH speed limit and by the puff of engine smoke coming from his exhaust it was apparent that he was flooring it. I activated my emergency lights and siren to attempt a stop on the vehicle. I did this at this time because I was traveling at about 60 MPH in a residential area and though it was late at night there is always a possibility of people outside. My siren would give warning to not only the defendant vehicle to stop but also warn other people that he was driving through the area at a high rate of speed and in a reckless manner.

I caught up to the driver at 2nd PI SE as he turned east. I was now right behind the driver and he continued to not stop despite being signaled with my blue lights and siren. The driver did stop at the stop sign at Houston but then continued south and quickly pulled into a driveway at 219 S Houston. The driver immediately exited his vehicle slamming his door and storming towards my patrol car waving his arms around like a maniac.

I exited my vehicle and drew my firearm keeping it at the low ready. This had no apparent effect on him and I switched to my taser. After displaying the light on the suspect's chest he complied with my orders to lie on the ground. Once on the ground the suspect continued to yell, scream, curse, and threaten me.

Deputy Schlaman was the first back up unit to arrive and took the suspect into custody. Officer Coble arrived shortly there after and took the suspect to his vehicle to secure him. While taking him to his vehicle he began to pull away from Officer Coble and Coble warned him to stop pulling or he was going to be controlled on the ground.

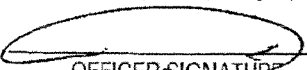
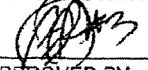
PERSONAL CONTACT:

Contact Driver:

I checked the suspect's wallet and located a Washington State driver's license positively identifying him as DODD, DAVID A. DOB-05/08/1963. A record check showed that he had a reinstated drivers status. I went to Officer Coble's patrol vehicle and contacted DODD and at that time read him his Miranda warnings. He stated that he understood them and did not ask to speak to an attorney. In fact he did not stop speaking at all and continued to yell and scream. I noticed that his veins were popping out of his face, neck, and arms. He was extremely red and sweating. I noted these observations because the temperature outside was not warm and neither was the vehicle he was riding in.

I asked DODD why he drove up to me and began yelling at me. He stated that he was tired of the police following him. He stated that all night he was seeing police and sheriffs and that he felt they were following him. He continued to make paranoid statements and wanted to tell me about the time he was attacked by the police in his house and tased for 10 minutes. He then accused me of being the officer who went into his parent's house and searched it. I told him that I had never been to his parent's house, arrested him, or been to his house prior to now. I did remind him that last month I pulled him

I certify (declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. (RCW 9A.72.085)

	15		6/10/10
OFFICER'S SIGNATURE	BADGE #	APPROVED BY	DATE SIGNED
EAST WENATCHEE / DOUGLAS JR			
Place signed (city/county/state)			

over for a traffic violation and gave him a warning for no valid driver's license. It should also be noted that I stopped him one other time for the same violation, no valid driver's license and in that case issued him an NOI. During the time I was attempting to speak with DODD he was not able to focus and irrational. At one point he began to speak about his kids and then started crying. After crying for a few moments he began to turn his anger towards me once again and started calling me a "Fucker!" I informed DODD that he was under arrest for failing to stop and suspicion of DUI.

I spoke with his father who arrived on scene. He told me that DODD has been under a lot of stress lately and has had a hard time with law enforcement. When I asked him why he might have tracked down the police and started threatening/attacking them he stated that he was not sure. I asked the senior DODD if his son had been taking any drugs and he stated that he did not think so but seemed unsure.

Transportation:

I transported DODD to the CCRJC for the administrative process and called Trooper T. Moberg a Washington State certified DRE. I told him that I had a subject in custody who I believed was under the influence. I told him that I could not smell intoxicants but that I was trained in advanced roadside impaired drugged driver training and that based on DODD's driving, paranoid statements, sweating profusely, rambling statements, fidgetiness, and his flushed face I believed that he was impaired by a stimulant.

ADMINISTRATIVE PROCESS:

Implied Consent/Miranda warning:

Upon arrival at jail I kept DODD cuffed and placed him in the interview seat provided in the BAC room. While waiting for Trooper Moberg to arrive I noticed that DODD was talking to himself and would at random times address me and call me a "Mother Fucker!" During the time at the jail he never became calm and was sweating very badly. He was only wearing blue jeans and a white light t-shirt.

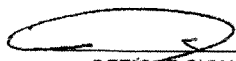

I read DODD his Miranda warnings from page 2 of the Washington State DUI packet and he acknowledged by calling me a "Fucking liar!"

Trooper Moberg arrived at about 2259 hours, and began to speak with DODD. During this time he was attempting to explain to DODD why he was there. DODD was not focusing on him and kept wanting to talk about his drunk of a girlfriend, or his children. He would then re focus on me and call me names. I attempted to leave the area so that Trooper Moberg could talk to him and get the information he needed for an evaluation.

After about 30 minutes it became clear by his actions and words that DODD would not do a drug evaluation. Trooper Moberg asked him if he would do the evaluation to proof he was not under the influence and he told us that he would not do it. I asked Trooper Moberg what his expert opinion was and he advised me that he believed he was under the influence as well.

Given the totality of the circumstance and all of the signs, symptoms, and observations I had

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EAST WENATCHEE / DOUGLAS / WA			
Place signed (city/county/state)			

reasonable suspicion to believe that DODD was under the influence of a drug. Specifically in this case a CNS stimulant. At about 2341 hours, I read DODD the implied consent warnings for blood and asked him if he would submit to a blood test to determine the presence of any drug. He stated "Fuck no!", and refused to submit. I punched DODD's driver's license and gave him the DOL hearing paperwork.

I placed DODD in the holding cell and was completing paperwork. While in the holding cell DODD continued to yell and started kicking the door. During the approximately one and half hours I was with him his behavior stayed consistent and did not change.

Incarceration or Release:

DODD was booked for DUI and fail to stop/obey an officer with citation C0008613 and given the proper instructions on how to take care of it.

Additional Information:

I returned to the East Wenatchee PD and got a recorded statement from [REDACTED] about what [REDACTED] had witnessed. See transcribed statement attached.

Trooper T. Moberg stated that he would be completing a report and forwarding it to East Wenatchee PD records for this case.

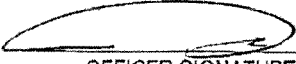

No additional tests were requested.

Time Line:

Time of stop: = 2221Hrs
 Time of custody: = 2225Hrs.
 Time of Constitutional Rights: = 2229/2255Hrs.
 Time of Implied Consent: = 2341Hrs.
 Time of refusal: = 2341 Hrs.
 Time clear: = 2357Hrs.

END REPORT

I certify (declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. (RCW 9A.72.085)

	15		8/10/10
OFFICER SIGNATURE	BADGE #	APPROVED BY	DATE SIGNED
<i>EAST WENATCHEE / Douglas / Chelan</i>			
Place signed (city/county/state)			

WASHINGTON STATE
DUI ARREST REPORTREPORT OF BREATH / BLOOD TEST FOR ALCOHOL OR
REFUSAL TO SUBMIT TO BREATH / BLOOD TEST FOR ALCOHOL AND DRUGS

SUBJECT'S NAME (LAST, FIRST, MI) DODD, DAVID ALLYN		SEX <input checked="" type="checkbox"/> M <input type="checkbox"/> F	DATE OF BIRTH 5/8/63	DATE / TIME OF ARREST 6/9/10 @ 2224
STREET ADDRESS 626 N KELLER AVE		CITY / STATE / ZIP CODE EAST WENATCHEE / DOUGLAS / WA		
DRIVER'S LICENSE NUMBER DODD XDA379KH	CDL ENDORSED? (CHECK IF YES) <input type="checkbox"/>	STATE WA	COUNTY OF ARREST DOUGLAS	CASE / CITATION NUMBER 10EO3006

Type of Test: ☐ Breath ☒ Blood Note: Sign and date this page only after toxicology report is received.BAC Readings: 1st Sample _____ 2nd Sample _____ Refused Test ☒

The subject was lawfully arrested. At that time, there were reasonable grounds to believe that the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration in violation of RCW 46.61.503.

After receipt of the warnings required by subsection (2) of RCW 46.20.308, a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person is age twenty-one or over, or was in violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person is under the age of twenty-one. OR

After receipt of the warnings required by subsection (2) of RCW 46.20.308, the person refused to submit to a test of his/her blood or breath.

☒ Driver's Hearing Request Information was given to the subject.☒ Valid Washington driver's license/permit punched.

Notice of Right to Hearing: I have been given written notice of my right to a hearing including the steps required to obtain a hearing, and understand that the notice of suspension, revocation, or denial of license will be mailed to the address furnished on the above portion of this document. I acknowledge that the address indicated is my current address.

SUBJECT CUFFED
SIGNATURE OF DRIVER

6/9/10
DATE

Sent to: **CA+DOL/DPA**
Date: **06/15/10 14611**

Complete this box ONLY if the arrested person was driving a commercial motor vehicle, as defined in Chapter 46.25 RCW at the time of the incident.


☐ Operating a Vehicle Requiring a Commercial Driver's License BAC Readings 1st Reading _____ 2nd Reading _____ Refused Test _____

There was probable cause to believe that the arrested person was driving or was in actual physical control of a vehicle requiring a commercial driver's license within this state while having alcohol/drugs in his/her system and that a test of his/her breath and/or blood disclosed an alcohol concentration of 0.04 or more. Chapter 46.25 RCW OR

There was probable cause to believe that the arrested person was driving or was in actual physical control of a vehicle requiring a commercial driver's license within this state while having alcohol/drugs in his/her system. The arrested person was requested to take a breath/blood test and informed of the consequences of refusal and his/her rights under Chapter 46.25 RCW. The arrested person then refused to submit to the requested test.

VEH YEAR	MAKE	MODEL	LICENSE PLATE NUMBER	STATE	HAZARDOUS MATERIAL? <input type="checkbox"/> YES <input type="checkbox"/> NO

I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing and the accompanying reports/copies of documents and the information contained therein are true, correct, and accurate. (RCW 9A.72.025)

LAW ENFORCEMENT AGENCY EAST WENATCHEE PD	ORI NO. (9 digits) WA0090200	OFFICER'S SIGNATURE 	DATE 6/9/10
MAILING ADDRESS 241 9TH ST NW	PRINTED NAME OF OFFICER J. MARSHALL	BADGE NUMBER #15	
CITY EAST WENATCHEE	STATE WA	ZIP 98802	PLACE SIGNED (city / county / state) WENATCHEE / CHelan / WA
OFFICER'S E-MAIL ADDRESS JMARSHALL@EASTWENATCHEEPOLICE.COM			CONTACT PHONE NUMBER FOR HEARING (include area code) (509) 884-9511

OFFICERS: Fax or mail completed report, breath test document, and supplemental reports to:

Department of Licensing
Driver Responsibility
PO Box 9030
Olympia, WA 98507-9030
Fax: (360) 570-7026

Number of pages faxed **13**

USE THIS PAGE AS COVER SHEET

WASHINGTON STATE
DUI ARREST REPORT

CASE / CITATION NUMBER

10E03006

☐ On the date, time and location of this arrest, I had authority to arrest pursuant to my agency's jurisdiction or RCW 10.93

CONSTITUTIONAL RIGHTS

1. YOU HAVE THE RIGHT TO REMAIN SILENT.
2. YOU HAVE THE RIGHT AT THIS TIME TO AN ATTORNEY.
3. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.
4. IF YOU ARE UNDER THE AGE OF 18, ANYTHING YOU SAY CAN BE USED AGAINST YOU IN A JUVENILE COURT PROSECUTION FOR A JUVENILE OFFENSE AND CAN ALSO BE USED AGAINST YOU IN AN ADULT COURT CRIMINAL PROSECUTION IF THE JUVENILE COURT DECIDES THAT YOU ARE TO BE TRIED AS AN ADULT.
5. YOU HAVE THE RIGHT TO TALK TO AN ATTORNEY BEFORE ANSWERING ANY QUESTIONS.
6. YOU HAVE THE RIGHT TO HAVE AN ATTORNEY PRESENT DURING THE QUESTIONING.
7. IF YOU CANNOT AFFORD AN ATTORNEY, ONE WILL BE APPOINTED FOR YOU WITHOUT COST IF YOU SO DESIRE.
8. YOU CAN EXERCISE THESE RIGHTS AT ANY TIME.
9. DO YOU UNDERSTAND THESE RIGHTS?

I HAVE READ OR HAVE HAD READ TO ME THE ABOVE EXPLANATION OF MY CONSTITUTIONAL RIGHTS AND I UNDERSTAND THESE RIGHTS.

SUBJECT'S SIGNATURE

SUBJECT CUFFED

I UNDERSTAND MY CONSTITUTIONAL RIGHTS. I HAVE DECIDED NOT TO EXERCISE THESE RIGHTS AT THIS TIME. ANY STATEMENTS MADE BY ME ARE MADE FREELY, VOLUNTARILY, AND WITHOUT THREATS OR PROMISES OF ANY KIND.

OFFICER'S SIGNATURE

#215

SUBJECT'S SIGNATURE

SUBJECT CUFFED

DATE/TIME

6/9/10 @ 2255 hrs

LOCATION(s)

WENATCHEE / CHELAN / WA



Constitutional rights (Miranda) were read in the field at 2209 hours from the department issued rights card.

ATTORNEY REQUESTED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	ATTORNEY CONTACTED? TIME: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNABLE	ATTORNEY'S NAME	ATTORNEY'S PHONE NO.
EXPLANATION:			

WASHINGTON STATE
DUI ARREST REPORT

CASE / CITATION NUMBER

10E03006

IMPLIED CONSENT WARNING FOR BREATH

WARNING! YOU ARE UNDER ARREST FOR:
(check appropriate box(es))

- ☒ RCW 46.61.502 OR RCW 46.61.504: Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs.
- ☐ RCW 46.61.503: Being under 21 years of age and driving or being in actual physical control of a motor vehicle after consuming alcohol.
- ☐ RCW 46.25.110: Driving a commercial motor vehicle while having alcohol in your system.

FURTHER, YOU ARE NOW BEING ASKED TO SUBMIT TO A TEST OF YOUR BREATH WHICH CONSISTS OF TWO SEPARATE SAMPLES OF YOUR BREATH, TAKEN INDEPENDENTLY, TO DETERMINE ALCOHOL CONCENTRATION.

- YOU ARE NOW ADVISED THAT YOU HAVE THE RIGHT TO REFUSE THIS BREATH TEST; AND THAT IF YOU REFUSE:
 - YOUR DRIVER'S LICENSE, PERMIT, OR PRIVILEGE TO DRIVE WILL BE REVOKED OR DENIED BY THE DEPARTMENT OF LICENSING FOR AT LEAST ONE YEAR; AND
 - YOUR REFUSAL TO SUBMIT TO THIS TEST MAY BE USED IN A CRIMINAL TRIAL.
- YOU ARE FURTHER ADVISED THAT IF YOU SUBMIT TO THIS BREATH TEST, AND THE TEST IS ADMINISTERED, YOUR DRIVER'S LICENSE, PERMIT, OR PRIVILEGE TO DRIVE WILL BE SUSPENDED, REVOKED, OR DENIED BY THE DEPARTMENT OF LICENSING FOR AT LEAST NINETY DAYS IF YOU ARE:
 - AGE TWENTY-ONE OR OVER AND THE TEST INDICATES THE ALCOHOL CONCENTRATION OF YOUR BREATH IS 0.08 OR MORE, OR YOU ARE IN VIOLATION OF RCW 46.61.502, DRIVING UNDER THE INFLUENCE, OR RCW 46.61.504, PHYSICAL CONTROL OF A VEHICLE UNDER THE INFLUENCE; OR
 - UNDER AGE TWENTY-ONE AND THE TEST INDICATES THE ALCOHOL CONCENTRATION OF YOUR BREATH IS 0.02 OR MORE, OR YOU ARE IN VIOLATION OF RCW 46.61.502, DRIVING UNDER THE INFLUENCE, OR RCW 46.61.504, PHYSICAL CONTROL OF A VEHICLE UNDER THE INFLUENCE.
- IF YOUR DRIVER'S LICENSE, PERMIT, OR PRIVILEGE TO DRIVE IS SUSPENDED, REVOKED, OR DENIED, YOU MAY BE ELIGIBLE TO IMMEDIATELY APPLY FOR AN IGNITION INTERLOCK DRIVER'S LICENSE.
- YOU HAVE THE RIGHT TO ADDITIONAL TESTS ADMINISTERED BY ANY QUALIFIED PERSON OF YOUR OWN CHOOSING.

FOR THOSE NOT DRIVING A COMMERCIAL MOTOR VEHICLE AT THE TIME OF ARREST: IF YOUR DRIVER'S LICENSE IS SUSPENDED OR REVOKED, YOUR COMMERCIAL DRIVER'S LICENSE, IF ANY, WILL BE DISQUALIFIED.

FOR THOSE DRIVING A COMMERCIAL MOTOR VEHICLE AT THE TIME OF ARREST: IF YOU EITHER (A) REFUSE THIS TEST OR (B) SUBMIT TO THIS TEST AND THE TEST INDICATES AN ALCOHOL CONCENTRATION OF 0.04 OR MORE, YOU WILL BE DISQUALIFIED BY THE DEPARTMENT OF LICENSING FROM DRIVING A COMMERCIAL MOTOR VEHICLE.

I HAVE READ THE ABOVE STATEMENT TO THE SUBJECT

I HAVE READ OR HAVE HAD READ TO ME THE ABOVE STATEMENT(S).

OFFICER'S SIGNATURE

SUBJECT'S SIGNATURE

DATE / TIME

LOCATION

WILL YOU NOW SUBMIT TO A BREATH TEST?

☐ YES ☐ NO

Did subject express any confusion regarding the implied consent warnings? If yes, explain below.

☐ YES ☐ NO

<input checked="" type="checkbox"/> At the time of this test(s), I was certified to operate the BAC DATAMASTER, the BAC DATAMASTER CDM, and PBT and possessed a valid permit issued by the State Toxicologist.			
DO YOU HAVE ANY FOREIGN SUBSTANCE IN YOUR MOUTH?	MOUTH CHECKED? TIME?	2 ND MOUTH CHECK? (If Necessary) TIME?	ANY FOREIGN SUBSTANCES FOUND? EXPLAIN:
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO REMOVED <input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/> I observed the subject from the time of the mouth check through the completion of the breath test. <input type="checkbox"/> The subject did not vomit, eat, drink, smoke, or place any foreign substance in his/her mouth during the observation time.			
<input type="checkbox"/> I performed the PBT test in accordance with the State Toxicologist's protocols. (Chapter 448-15 WAC)		PBT READING	PBT TIME
<input type="checkbox"/> BOOKED RELEASED TO: <input checked="" type="checkbox"/> PR'D			

WASHINGTON STATE
DUI ARREST REPORT
DUI INTERVIEW

CASE / CITATION NUMBER

10203006

1. DO YOU HAVE ANY PHYSICAL IMPAIRMENTS? EXPLAIN: <input type="checkbox"/> YES <input type="checkbox"/> NO		13. ANYTHING MECHANICALLY WRONG WITH THE VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
2. DO YOU LIMP? <input type="checkbox"/> YES <input type="checkbox"/> NO		14. HAVE YOU BEEN INJURED OR INVOLVED IN ANY COLLISION(S) IN THE PAST 24 HOURS? <input type="checkbox"/> YES <input type="checkbox"/> NO	
3. ARE YOU SICK / INJURED? EXPLAIN: <input type="checkbox"/> YES <input type="checkbox"/> NO		15. HAVE YOU HAD ANY ALCOHOL TO DRINK SINCE BEING STOPPED / THE COLLISION? <input type="checkbox"/> YES <input type="checkbox"/> NO	
4. UNDER CARE OF A DOCTOR OR DENTIST? <input type="checkbox"/> YES <input type="checkbox"/> NO		15A. WHAT?	15B. HOW MUCH?
5. ARE YOU DIABETIC / EPILEPTIC? <input type="checkbox"/> YES <input type="checkbox"/> NO		16. TIME COLLISION OCCURRED?	
6. ARE YOU TAKING ANY MEDICINES/DRUGS IN THE PAST 24 HOURS? <input type="checkbox"/> YES <input type="checkbox"/> NO		17. WHERE WERE YOU GOING BEFORE STOPPED / THE COLLISION?	
7A. PRESCRIPTION? <input type="checkbox"/> YES <input type="checkbox"/> NO	18. WITHOUT LOOKING, WHAT TIME DO YOU THINK IT IS? (ACTUAL TIME)		
7B. NON-PRESCRIPTION? <input type="checkbox"/> YES <input type="checkbox"/> NO	19. WHAT STREET / HIGHWAY WERE YOU ON? 20. DIRECTION OF TRAVEL?		
7C. LAST DOSE?	7D. QUANTITY?	21. STARTED FROM? 22. TIME STARTED?	
7E. COCAINE? <input type="checkbox"/> YES <input type="checkbox"/> NO MARIJUANA? <input type="checkbox"/> YES <input type="checkbox"/> NO OTHER? <input type="checkbox"/> YES <input type="checkbox"/> NO		23. DAY OF THE WEEK? <input type="checkbox"/> Mon <input type="checkbox"/> Tues <input type="checkbox"/> Wed <input type="checkbox"/> Thurs <input type="checkbox"/> Fri <input type="checkbox"/> Sat <input type="checkbox"/> Sun	
8. DO YOU HAVE IMPAIRED VISION? <input type="checkbox"/> YES <input type="checkbox"/> NO		24. WHAT CITY / COUNTY ARE YOU IN NOW? 25. WHAT IS THE DATE?	
8A. DO YOU WEAR CORRECTIVE LENSES? <input type="checkbox"/> YES <input type="checkbox"/> NO		26. HAVE YOU BEEN DRINKING ALCOHOLIC BEVERAGES? <input type="checkbox"/> YES <input type="checkbox"/> NO	
8B. WERE YOU WEARING THEM WHEN YOU WERE STOPPED / BEFORE COLLISION? <input type="checkbox"/> YES <input type="checkbox"/> NO		26A. WHAT HAVE YOU BEEN DRINKING?	
9. WHERE DO YOU WORK?	9A. DID YOU WORK TODAY?	26B. HOW MUCH?	26C. WHEN DID YOU START?
10. TIME YOU GOT OFF WORK?		27. WHO HAVE YOU BEEN DRINKING WITH? 28. WHERE WERE YOU DRINKING?	
11. HOURS OF SLEEP LAST NIGHT?	12. WERE YOU DRIVING THE VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO	29. TIME OF LAST DRINK? 30. DO YOU BELIEVE YOUR ABILITY TO DRIVE WAS AFFECTED BY YOUR ALCOHOL AND/OR DRUG USAGE?	

31. HAVE YOU EVER BEEN ARRESTED FOR DUI BEFORE? ☐ YES ☐ NO IF YES, HOW MANY TIMES?

If drug use indicated, please contact WSP Communications or local DRE after breath test and continue with DUI process.

PRE-ARREST OBSERVATIONS

1. ATTITUDE <input type="checkbox"/> COOPERATIVE <input type="checkbox"/> MOOD SWINGS <input checked="" type="checkbox"/> ARGUMENTATIVE <input type="checkbox"/> CRYING <input type="checkbox"/> LAUGHING <input checked="" type="checkbox"/> OTHER: <i>Aggressive</i>	2. COORDINATION <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR <input type="checkbox"/> FUMBLER FOR DRIVER'S LICENSE <input type="checkbox"/> OTHER:	3. CLOTHES <input type="checkbox"/> ORDERLY <input type="checkbox"/> SOILED - EXPLAIN <input type="checkbox"/> OTHER: EXPLAIN <input checked="" type="checkbox"/> SHOES (Describe) <i>Turns shoes</i>	4. EYES <input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> X WATERY <input type="checkbox"/> DROOPY <input type="checkbox"/> BLOODSHOT <input type="checkbox"/> PUPILS DILATED <input type="checkbox"/> PUPILS CONSTRICTED <input type="checkbox"/> OTHER:	5. FACIAL COLOR <input type="checkbox"/> NORMAL <input checked="" type="checkbox"/> X FLUSHED <input type="checkbox"/> PALE <input type="checkbox"/> OTHER:	6. ODOR OF INTOXICANTS ON BREATH <input checked="" type="checkbox"/> X NONE <input type="checkbox"/> FAINT <input type="checkbox"/> MEDIUM <input type="checkbox"/> STRONG <input type="checkbox"/> OBVIOUS <input type="checkbox"/> OTHER:	7. SPEECH <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input checked="" type="checkbox"/> X REPETITIVE <input checked="" type="checkbox"/> X FAST <input type="checkbox"/> SLURRED <input type="checkbox"/> OTHER:
8. OFFICER'S OPINION (of subject's impairment due to use of alcohol/drugs) <input type="checkbox"/> SLIGHT <input type="checkbox"/> OBVIOUS <input checked="" type="checkbox"/> X EXTREME		9. SUBJECT'S NATIVE LANGUAGE <input checked="" type="checkbox"/> X ENGLISH <input type="checkbox"/> OTHER		9A. SUBJECT APPEARED TO UNDERSTAND INSTRUCTIONS <input checked="" type="checkbox"/> X YES <input type="checkbox"/> NO		
9B. INTERPRETER REQUESTED? EXPLAIN BELOW: <input type="checkbox"/> YES <input type="checkbox"/> NO TIME:				INTERPRETER PROVIDED		
10. PASSENGER(S) INFORMATION <i>None</i>						

**WASHINGTON STATE
DUI ARREST REPORT
SOBRIETY TESTS**

CASE / CITATION NUMBER

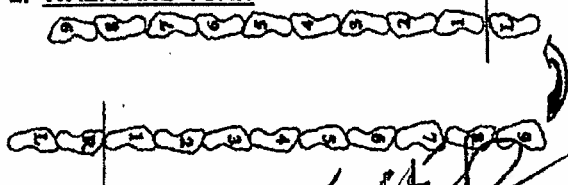
10203006

SURFACE		GRADE		LIGHTING	
<input type="checkbox"/> PAVED	<input type="checkbox"/> GRAVEL	<input type="checkbox"/> DIRT	<input type="checkbox"/> GRASS	<input type="checkbox"/> LEVEL	<input type="checkbox"/> SLIGHT GRADE
<input type="checkbox"/> OTHER				<input type="checkbox"/> MODERATE GRADE	<input type="checkbox"/> DAYLIGHT
				<input type="checkbox"/> OTHER	<input type="checkbox"/> DARK
				<input type="checkbox"/> STREET LIGHT	

1. HORIZONTAL GAZE NYSTAGMUS (HGN)
☒ I have been trained in the administration of HGN testing and performed the test in accordance with this training.

		L	R	
EQUAL TRACKING	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/>	<input type="checkbox"/>	Lack of smooth pursuit
EQUAL PUPILS	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/>	<input type="checkbox"/>	Distinct and sustained nystagmus at max deviation
RESTING NYSTAGMUS	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/>	<input type="checkbox"/>	Angle of onset prior to 45 degrees
				VERTICAL NYSTAGMUS <input type="checkbox"/> YES <input type="checkbox"/> NO

COMMENTS:

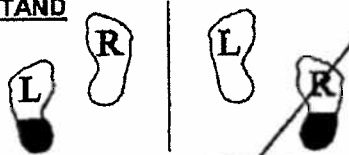
2. WALK AND TURN☐ Cannot keep balance☐ Starts too soon

	1 st Nine Steps	2 nd Nine Steps
Stops Walking		
Miss Heel - Toe		
Steps off line		
Raises arms		
Actual # steps		

DESCRIBE TURN

CANNOT DO TEST (EXPLAIN)

COMMENTS:

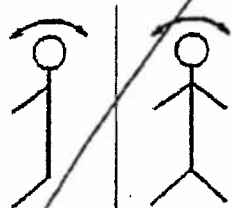
3. ONE LEG STAND

L	R	
		Sways while balancing
		Uses arms for balance
		Hopping
		Puts foot down

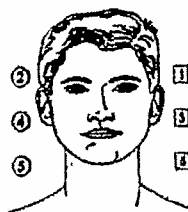
COMMENTS:

SUPPLEMENTAL TESTS

ABC'S A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

BALANCE**NOTES****FINGER DEXTERITY****NOTES****FINGER TO NOSE**

☐ Right ☐ Left
Draw lines from spots touched.



WASHINGTON STATE
DUI ARREST REPORT
NARRATIVE

CASE / CITATION NUMBER

10003008

Vehicle in Motion (Initial Observation, Observation of Stop):

SEE CASE REPORT.

Personal Contact (Observation of driver, statements, pre-exit, sobriety tests, observation of the exit, odors, general observations such as speech, attitude, clothing, etc.)

Pre-Arrest Screening (Field Sobriety Tests):

Administrative Process (BAC and Disposition):

I certify (declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. (RCW 9A.72.085.)

OFFICER'S SIGNATURE

BADGE NUMBER

PRINTED NAME OF OFFICER

EAST WENATCHEE PD
AGENCY

#15

J. MARSHALL

WENATCHEE / CHelan / WA
PLACE SIGNED (city / county / state)6/9/10
DATE SIGNED

WASHINGTON STATE
DUI ARREST REPORT

CASE / CITATION NUMBER

10E03006

SPECIAL EVIDENCE WARNING

WARNING! YOU ARE UNDER ARREST FOR:

- ☐ VEHICULAR HOMICIDE ☐ UNCONSCIOUS (DUI/PHYSICAL-CONTROL/MINOR-DRIVER)
☐ VEHICULAR ASSAULT ☐ DUI ARREST RESULTING FROM AN ACCIDENT WITH SERIOUS BODILY INJURY TO ANOTHER

A TEST OF YOUR BLOOD OR BREATH WILL BE ADMINISTERED TO DETERMINE THE CONCENTRATION OF ALCOHOL AND/OR ANY DRUG IN YOUR BLOOD; HOWEVER, I MUST ADVISE YOU THAT BECAUSE OF THE NATURE OF THE ARREST, ACCORDING TO THE LAW, A BLOOD OR BREATH TEST MAY BE ADMINISTERED WITHOUT YOUR CONSENT, AND THAT YOU HAVE THE RIGHT TO ADDITIONAL TESTS ADMINISTERED BY A QUALIFIED PERSON OF YOUR OWN CHOOSING.

I HAVE READ THE ABOVE STATEMENT TO THE SUBJECT

I HAVE READ OR HAVE HAD READ TO ME THE ABOVE STATEMENT

OFFICER'S SIGNATURE

SUBJECT'S SIGNATURE

DATE / TIME

LOCATION(s)

IMPLIED CONSENT WARNING FOR BLOOD

WARNING! YOU ARE UNDER ARREST FOR:

- ☒ RCW 46.61.502 or RCW 46.61.504: Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs.
☐ RCW 46.61.503: Being under 21 years of age and driving or being in actual physical control of a motor vehicle after consuming alcohol.
☐ RCW 46.25.110: Driving a commercial motor vehicle while having alcohol in your system.

FURTHER, YOU ARE NOW BEING ASKED TO SUBMIT TO A TEST OF YOUR BLOOD TO DETERMINE ALCOHOL CONCENTRATION OR THE PRESENCE OF ANY DRUG WHERE:

- (A) YOU ARE INCAPABLE DUE TO PHYSICAL INJURY, PHYSICAL INCAPACITY, OR OTHER PHYSICAL LIMITATION, OF PROVIDING A BREATH SAMPLE; OR
 (B) YOU ARE BEING TREATED IN A HOSPITAL, CLINIC, DOCTOR'S OFFICE, EMERGENCY MEDICAL VEHICLE, AMBULANCE, OR OTHER SIMILAR FACILITY; OR
 (C) THE OFFICER HAS REASONABLE GROUNDS TO BELIEVE THAT YOU ARE UNDER THE INFLUENCE OF ANY DRUG.

A BLOOD TEST SHALL BE ADMINISTERED BY A QUALIFIED PERSON AUTHORIZED BY RCW 46.61.506(5).

- YOU ARE NOW ADVISED THAT YOU HAVE THE RIGHT TO REFUSE THIS BLOOD TEST; AND THAT IF YOU REFUSE:
 (A) YOUR DRIVER'S LICENSE, PERMIT, OR PRIVILEGE TO DRIVE WILL BE REVOKED OR DENIED BY THE DEPARTMENT OF LICENSING FOR AT LEAST ONE YEAR; AND
 (B) YOUR REFUSAL TO SUBMIT TO THIS TEST MAY BE USED IN A CRIMINAL TRIAL.
- YOU ARE FURTHER ADVISED THAT IF YOU SUBMIT TO THIS BLOOD TEST, AND THE TEST IS ADMINISTERED, YOUR DRIVER'S LICENSE, PERMIT, OR PRIVILEGE TO DRIVE WILL BE SUSPENDED, REVOKED, OR DENIED BY THE DEPARTMENT OF LICENSING FOR AT LEAST NINETY DAYS IF YOU ARE:
 (A) AGE TWENTY-ONE OR OVER AND THE TEST INDICATES THE ALCOHOL CONCENTRATION OF YOUR BLOOD IS 0.08 OR MORE, OR YOU ARE IN VIOLATION OF RCW 46.61.502, DRIVING UNDER THE INFLUENCE, OR RCW 46.61.504, PHYSICAL CONTROL OF A VEHICLE UNDER THE INFLUENCE;
 OR
 (B) UNDER AGE TWENTY-ONE AND THE TEST INDICATES THE ALCOHOL CONCENTRATION OF YOUR BLOOD IS 0.02 OR MORE, OR YOU ARE IN VIOLATION OF RCW 46.61.502, DRIVING UNDER THE INFLUENCE, OR RCW 46.61.504, PHYSICAL CONTROL OF A VEHICLE UNDER THE INFLUENCE.
- IF YOUR DRIVER'S LICENSE, PERMIT, OR PRIVILEGE TO DRIVE IS SUSPENDED, REVOKED, OR DENIED, YOU MAY BE ELIGIBLE TO IMMEDIATELY APPLY FOR AN IGNITION INTERLOCK DRIVER'S LICENSE.
- YOU HAVE THE RIGHT TO ADDITIONAL TESTS ADMINISTERED BY ANY QUALIFIED PERSON OF YOUR OWN CHOOSING.

FOR THOSE NOT DRIVING A COMMERCIAL MOTOR VEHICLE AT THE TIME OF ARREST: IF YOUR DRIVER'S LICENSE IS SUSPENDED OR REVOKED, YOUR COMMERCIAL DRIVER'S LICENSE, IF ANY, WILL BE DISQUALIFIED.

FOR THOSE DRIVING A COMMERCIAL MOTOR VEHICLE AT THE TIME OF ARREST: IF YOU EITHER (A) REFUSE THIS TEST OR (B) SUBMIT TO THIS TEST AND THE TEST INDICATES AN ALCOHOL CONCENTRATION OF 0.04 OR MORE, YOU WILL BE DISQUALIFIED BY THE DEPARTMENT OF LICENSING FROM DRIVING A COMMERCIAL MOTOR VEHICLE.

I HAVE READ THE ABOVE STATEMENT TO THE SUBJECT.

I HAVE READ OR HAVE HAD READ TO ME THE ABOVE STATEMENT(S).

OFFICER'S SIGNATURE

SUBJECT'S SIGNATURE

DATE / TIME

LOCATION(s)

WILL YOU NOW SUBMIT TO A BLOOD TEST? ☐ YES ☒ NO ☐ I observed blood drawn into gray top vial.

Did subject express any confusion regarding the implied consent warnings? ☐ YES ☒ NO If so, explain below.

DATE / TIME SAMPLES TAKEN	CHEMICAL USED TO STERILIZE AREA	HOW DELIVERED? <input type="checkbox"/> HAND CARRIED <input type="checkbox"/> REGISTERED MAIL <input type="checkbox"/> OTHER:	
SAMPLE(S) TAKEN BY (PHYSICIAN, RN, QUALIFIED TECHNICIAN) (Please print legibly)	..	ADDRESS OF PERSON TAKING SAMPLE(S)	PHONE # OF PERSON TAKING SAMPLE(S)
GIVEN TO (OFFICER)	SAMPLES LABELED BY	DELIVERED FOR ANALYSIS BY	DELIVERED FOR ANALYSIS TO

VOLUNTARY BLOOD / URINE / BREATH

I VOLUNTARILY PERMIT _____ TO OBTAIN A SUFFICIENT AMOUNT OF MY BLOOD AND/OR URINE AND/OR BREATH TO TEST IT TO DETERMINE ITS ALCOHOL/DRUG CONTENT. THE PROCEDURES NECESSARY TO TAKE A SAMPLE OF MY BLOOD AND/OR URINE AND/OR BREATH HAVE BEEN EXPLAINED TO ME.

OFFICER'S SIGNATURE

SUBJECT'S SIGNATURE

DATE

TIME

LOCATION

6-16-10



Washington State Patrol Report of Investigation

NARRATIVE

Trooper T.M. Moberg #1205
DUI case 10E03006



Arresting officer: James Marshall East Wenatchee Police Department

Suspect: David A. Dodd, DOB-05/08/1963

On June 09, 2010 at about 2252 hours WSP radio advised East Wenatchee police department was requesting a DRE (Drug Recognition Expert) to respond to the jail regarding a possible evaluation. I contacted Officer James Marshall on the phone and he advised he had a subject under arrest and was en-route the jail.

I arrived at the jail at about 2300 hours and went inside the BAC area. When I arrived I heard a male yelling from down the hallway. I could hear the man saying "this is all bullshit and I am tired of it all." When I rounded the corner I observed Officer Marshall seated at the desk and a male subject sitting on a metal bench near the desk. The subject was handcuffed and visibly upset.

I first noticed the male had very flushed skin color and had a white chalky residue around the corners of his mouth. I talked briefly with the subject and then asked Officer Marshall some information regarding the stop. As soon as Marshall began to speak the subject exploded with a verbal rant that lasted well over 3 minutes.

The man was talking so loud and fast it was difficult to follow his rant. The man stated "This fucker right here is crazy. He is making up bullshit to cover his ass. This is all bullshit." I asked the subject several times to calm down and listen to what I had to say and why I was called to the jail. He stated "I don't fucking care why you are here."

After several minutes of talking to the subject he calmed down and let me explain the reason for me being there. The subject told me several times that he was sorry for being so upset and he had no problem with me but he had a big problem with Officer Marshall from previous contacts.

I explained to the subject I was there to offer him an opportunity to perform an evaluation. The subject stated several times he was not drunk or high but just very very mad and angry. I observed the subject's posture to be very tense and rigid. It appeared to me he was delusional and or under the influence of some type of drug or substance. I explained to the subject without the evaluation I would not be able to give a clear picture of his impairment.

After several attempts of explaining the evaluation to the subject he stood up and stated "I don't give a fuck what it is because I am not doing and fucking tests. Just put me in that cell. That's what you can do." After talking with the subject for over 40 minutes he continued his excited state and did not calm down for more than a few minutes in between tirados. I advised Marshall it was clear to me the evaluation was not going to happen and I cleared the jail.

I certify (declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Trooper: _____, Dated _____, in Chelan County Washington.

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COPY Prev. Subm

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